



DRAFT

**FAIRFAX COUNTY LEGISLATIVE PROGRAM
FOR THE
2005 VIRGINIA GENERAL ASSEMBLY**

**FAIRFAX COUNTY LEGISLATIVE PROGRAM
2005 VIRGINIA GENERAL ASSEMBLY**

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***JOINT POSITIONS
FAIRFAX COUNTY BOARD OF SUPERVISORS AND
SCHOOL BOARD***

Fairfax County Board of Supervisors and School Board
JOINT LEGISLATIVE POSITIONS
2005 General Assembly

1. JOINT EDUCATION FUNDING POSITIONS *(Revises and updates previous position.)*

The Fairfax County School Board and the Fairfax County Board of Supervisors jointly support the following positions:

- **Continued General Assembly attention to State funding of public education through the Standards of Quality (SOQ) and other programs**
- **Enhanced revenue capacity for localities to address pressing public education capital costs and other local needs**
- **Flexibility and additional resources to carry out the federal mandates under the No Child Left Behind Act and the Individuals with Disabilities Education Act**
- **Adoption of a College Credit Initiative**
- **Funding for At Risk Youth/After School Programs/Anti-Gang Activities**

Standards of Quality/State Education Funding *(Updated)*

The Boards applaud the actions taken during the 2004 General Assembly Extended Session to provide significant additional resources for K-12 public education. However, there still remain critical gaps to be addressed between funding under the Standards of Quality (SOQ), and the actual costs of meeting the SOQ based on prevailing practices among local school divisions. For example, the state should provide increased long-term funding for school construction and renovation and for educational technology. The Boards encourage continued General Assembly attention to state funding for K-12 public education, especially in view of growing student enrollment, increasing student diversity, and the two state and federal accountability programs: the Standards of Accreditation and the No Child Left Behind Act (NCLB).

The Boards also support General Assembly completion of the funding for the Board of Education's 2003 recommendations for enhancing the SOQ staffing standards. The Boards oppose increasing SOQ funding by shifting funds from other education accounts, such as categorical and incentive programs and the Literary Fund; in particular, the Boards support full restoration of the SOQ federal revenue deduction.

Enhanced Revenue Capacity for Education and Other Local Needs *(Updated)*

The Boards continue to support legislation returning a portion of the state individual income tax to the localities as net new revenue for their unrestricted use. This money would be in addition to existing State aid to localities.

The Boards also continue to support completing the equalization of taxing authority between cities and counties, by giving counties the same taxing authority as that currently available to cities. Most counties are now providing the same services as cities, with fewer options available for funding those services. Despite recent General Assembly actions, counties continue to be reliant on property taxes that have proven to be inadequate and inequitable revenue sources.

Fairfax County Board of Supervisors and School Board
JOINT LEGISLATIVE POSITIONS
2005 General Assembly

1. JOINT EDUCATION FUNDING POSITIONS (Cont.)

The Boards support actions by policy-makers that produce extra funds or funding opportunities for localities, and oppose those actions that would decrease local revenue, in any way curtail local government authority to raise revenue, or expand the dependency of localities on revenue-sharing mechanisms controlled by the state.

No Child Left Behind/Federal Education Funding (*New position*)

The Boards support the goals of the federal No Child Left Behind Act (NCLB), but urge the United States Department of Education (USED) to grant flexibility to states such as Virginia with a demonstrated record in the use of student accountability systems in improving student achievement to keep components of their existing state accountability plans intact. While states need to make every effort to align state plans to match NCLB provisions, USED needs to show similar flexibility in consideration and approval of state plans submitted to implement the law.

The Boards call on the federal government to live up to its commitment to provide adequate resources for NCLB implementation, as well as for the Individuals with Disabilities Education Act (IDEA) (which provides funds for FCPS special education students), to ensure that the financial burden of these mandates do not continue to fall to local governments.

College Credit Initiative (*New position*)

The Boards support collaborative partnerships between local school divisions and institutions of higher learning allowing high school students to earn college credit while still attending high school and facilitating their pursuit of technical training for industry certifications, such as the Governor's Commonwealth College Course Collaborative or FCPS partnerships with George Mason University and Northern Virginia Community college. The Boards also support minimizing the financial impact on students of securing college credits through these programs, whether through the partnership agreements themselves, or through local, state or federal resources.

Such programs would create a unified and seamless system that offers students the opportunity to begin college work while still attending high school and then to attend a two or four year institution with college credit already in hand. As evidenced by the increasing numbers of FCPS students successfully completing AP and IB programs, there are a substantial number of students who are interested in and capable of successfully completing college-level work.

Fairfax County Board of Supervisors and School Board
JOINT LEGISLATIVE POSITIONS
2005 General Assembly

1. JOINT EDUCATION FUNDING POSITIONS (Cont.)

At Risk Youth /After School Programs/ Anti-Gang Activities (*New position*)

The Boards support comprehensive after-school programs that are school and community based. In particular, the Boards support evidence-based prevention and intervention that engages and educates parents as well as youth to better address adolescent substance abuse, behavioral issues, and criminal gang involvement. The Boards also support continued cooperation between levels of government and across jurisdictions addressing the problems related to gang activity in the region.

The Boards support increased appropriations for the federal Safe and Drug Free Schools and Communities Program and the 21st Century Community Learning Centers Program, as well as other types of funding that are aimed at curbing gang violence in this region and the Commonwealth.

REGIONAL POSITIONS

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSTIONS
2005 General Assembly**

1. TRANSIT FUNDING -- REGIONAL GAS TAX

A regional position is now being developed to increase the regional gas tax for transit from two percent to four percent. Both Northern Virginia Transportation Commission (NVTC) and Northern Virginia Transportation Authority (NVTA) are currently working on their legislative programs. Both agencies are scheduled to adopt their legislative programs in December. (Will revise/update previous position.)

Support increasing the Northern Virginia motor fuels tax from two percent to four percent.

Since 1981, the NVTC has collected a regional, two-percent motor fuels tax in Fairfax County, Arlington County and the Cities of Alexandria, Fairfax and Falls Church. This tax is applied to the retail price of motor fuels in the five jurisdictions. The revenue collected is allocated back to the jurisdictions based on point-of-sale. This revenue is used to pay the jurisdictions' share of the Washington Metropolitan Area Transit Authority's operating and capital expenses, including debt service. Loudoun County also receives a two-percent motor fuels sales tax and uses it for transportation purposes.

For the past two years, several jurisdictions and agencies included support for increasing Northern Virginia's regional gas tax from two percent to four percent in their legislative programs. Such an increase would generate approximately \$20 million in additional funds for transit and transportation projects and services annually. (In the original five NVTC jurisdictions, gas tax funds can only be used to support the Washington Metropolitan Area Transit Authority. Loudoun County has greater flexibility to spend gas tax revenues on a variety of transportation projects and services). It is anticipated that both NVTC and NVTA will include this position in their legislative programs in some form.

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSTIONS
2005 General Assembly**

2. TRANSPORTATION -- FUNDING

A similar position to that presented below was adopted by the Virginia Municipal League's legislative committee and will be considered by the Virginia Association of Counties. A Northern Virginia regional position is now being developed regarding increased funding for transportation projects and services. Both the Northern Virginia Transportation Commission (NVTC) and the Northern Virginia Transportation Authority (NVTa) are currently working on their legislative programs. Fairfax County will work with these regional transportation bodies to finalize a transportation funding proposal that is consistent with the County's position. NVTC and NVTa are scheduled to adopt their legislative programs in December. (Will reaffirm previous position; Board has historically endorsed.)

Northern Virginia calls upon the Governor and the General Assembly to make transportation the primary focus of the 2005 session of the General Assembly and to significantly increase transportation funding. Given the failure of the General Assembly to address this issue during the 2004 session and the consequent decline in transportation funding, the Commonwealth is experiencing disinvestments in its transportation infrastructure. Absent a major infusion of new and sustained investment in transportation, Northern Virginia jurisdictions fear a congestion and mobility crisis that will strangle economic growth and profoundly and negatively affect the quality of life of all our citizens.

It has been 18 years since the last significant increase in state transportation funding. During those years, the following have occurred:

- The number of vehicle miles traveled has grown by 79 percent, and the number of registered vehicles has increased by 53 percent
- Transit ridership has increased by 64 percent
- Buying power of gas tax has declined by 40 percent

In addition:

- Federal revenues now make up 60 percent of the construction program – federal funds come with restrictions and additional requirements
- Over \$200 million of construction funds have been used for maintenance
- Debt service now accounts for 13 percent of construction funds

According to the *VTrans2025* report, the total statewide highway needs from 2005 to 2025 are \$145.9 billion. VDOT estimates \$71.7 billion will be available for highways during the same timeframe, resulting in a shortfall of \$74.2 billion. Even if no new projects are added in the next twenty years, there still will be a shortfall of \$2.8 billion over the next 20 years to finish all the projects that are currently programmed due to increased siphoning of construction funds from rising maintenance costs, debt service and inflation.

By 2014, the state will not have enough funds to match anticipated federal funds and will have to turn back those funds.

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSTIONS
2005 General Assembly**

2. TRANSPORTATION -- FUNDING (Cont.)

In the same report, the Department of Rail and Public Transportation estimates that the state will need \$15.7 billion for transit capital costs and \$12.5 billion for transit operating costs in the next 20 years to just maintain the current transit market share. Considering revenues reasonably expected to be available from federal, state and local sources, the unfunded portion of the transit capital needs is expected to be \$8.6 billion over the period, or \$411 million annually. Operating shortfalls total \$9.6 billion (\$455 million annually). *The combined statewide shortfall for transit capital and operating is \$18.2 billion, or \$866 million annually.*

There is also the hidden cost of congestion that is often overlooked. According to The Road Information Program, the annual average cost of congestion for drivers in the Washington D.C. metropolitan area is \$1,278. Once the additional vehicle operating cost from inadequate roads and the additional cost of vehicle crashes due to unsafe roads are added to the congestion cost, the cost to an average driver in the D.C. region is \$2,131 per year.

The Washington D.C. region is consistently listed as one of the worst areas in the country in terms of congestion and delays suffered by motorists. Although Washington Metropolitan Area Transit Authority (WMATA) and other local transit agencies are doing their part to ease congestion, they too are near capacity levels and will soon suffer the same level of congestion and crowding. WMATA is the only major transit provider in the country without a dedicated revenue source for significant part of their revenue base. A Blue Ribbon Panel on Metro Funding has been established to study and recommend appropriate sources of dedicated funding. The recommendations of the Blue Ribbon Panel are expected to be released in early December 2004.

The State has failed to pay the 95 percent of transit capital costs that the General Assembly authorized. Most years the state only funds between 30 and 40 percent of transit capital cost forcing localities to carry the remaining burden. In addition, the state is currently reimbursing only 43 percent of transit operating costs.

In addition to the transit capital and operational cost borne by the localities, the localities have had to spent local funds for roadway improvements as well. The voters in Northern Virginia localities have authorized \$1 billion in General Obligation Bonds for transportation improvements since 1981. The debt service on these bonds competes directly with funds needed for schools, public safety, and other important services and the need to keep the real estate taxes in check.

Actions Required

1. Increase transportation funding significantly for all modes from stable, reliable, and permanent source(s).
2. Meet the Commonwealth's statutory 95 percent share of transit operating and capital costs (net of fares and federal assistance). This would require at least

***Northern Virginia DRAFT REGIONAL LEGISLATIVE POSTIONS
2005 General Assembly***

2. *TRANSPORTATION -- FUNDING (Cont.)*

\$168 million annually in new funds for the limited transit projects and eligible operating costs included in CTB's six-year program.

3. Increase Northern Virginia's 2 percent gas tax to 4 percent.
4. Support the Metro Blue Ribbon Panel's recommendations.

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSTIONS
2005 General Assembly**

3. TRANSPORTATION -- PEDESTRIAN SAFETY

Both NVTC and NVTa will likely include a similar position in their legislative programs. In addition, several local NOVA jurisdictions are also expected to endorse this position.

Northern Virginia localities and transportation agencies support an update of the 1995 study of pedestrian laws in Virginia and surrounding states by the Virginia Transportation Research Council. In addition, the County continues to support legislation to require drivers to stop for pedestrians in a crosswalk at unsignalized intersections where the speed limit is 35 mph or lower. (Revises previous position.)

Under current Virginia law a driver only has to yield to pedestrians, rather than come to a complete stop, for pedestrians in a crosswalk at unsignalized intersections where the speed limit is 35 miles per hour or lower.

Recent events throughout the region have highlighted a growing concern for the safety of pedestrians attempting to cross streets. Many Northern Virginia jurisdictions are exploring a variety of means to effectively provide for pedestrian safety while avoiding both the potential for serious vehicular accidents and the potential for creating a false sense of security for the pedestrians.

Last year several jurisdictions and agencies in Northern Virginia and around the state sought legislation that would require drivers to stop for pedestrians in a crosswalk at unsignalized intersections. Several bills were introduced. Two of these bills passed the Senate, but all the bills failed in the House Transportation Committee.

Due to the reception "Stop for Pedestrian" legislation received last year, it appears that an updated, independent review of Virginia's pedestrian laws will be the most effective way to build support for changing them.

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSITIONS
2005 Virginia General Assembly**

4. TRANSPORTATION -- PHOTO RED LIGHT

A regional position is now being developed to eliminate the sunset provision for current photo red light authority or to extend the current sunset. Both NVTC and NVTa will likely include similar positions in their legislative programs. In addition, several local jurisdictions are also expected to endorse this position.

Support extending the existing photo red light authority beyond the current sunset of July 1, 2005. (Revises previous position.)

Fairfax County received approval to implement its Photo Red Program from the General Assembly in 1995. Several other jurisdictions, mostly in Northern Virginia, also received the authority to implement photo red programs. The authority for all of these programs will expire on July 1, 2005, unless the sunset is extended or removed. For the past two years, Delegate Michelle McQuigg sponsored legislation that would remove the sunset provision, expand the authority to implement programs statewide, require a law enforcement officer to affirm violations, set forth criteria for intersection selection, specify engineering analyses and signage requirements, and require a public information campaign. Last year, Delegate Tom Rust sponsored a bill to eliminate the sunset provisions. In addition, Senator Devolites sponsored a comprehensive photo red bill similar to Delegate McQuigg's bill. This bill passed the Senate, but all photo red bills failed in the House Militia, Police and Public Safety Committee.

Fairfax County has seen a 59.9 percent reduction in the number of vehicles running red lights at intersections where a photo red camera was installed. Surveys conducted before and after the implementation of Fairfax County's Photo Red Light Program show that 81 percent of those surveyed support the program.

COUNTY INITIATIVES

Fairfax County DRAFT LEGISLATIVE INITIATIVES
2005 Virginia General Assembly

1. AIR QUALITY -- OZONE REDUCTION MEASURES

Initiate a joint resolution requesting that the Virginia Department of Environmental Quality (DEQ) study the feasibility of developing a legal framework to integrate tree-related ozone reduction measures into air quality implementation plans submitted by jurisdictions located in ozone non-attainment airsheds, and to prepare a report on the subject.

As part of the Washington, DC metropolitan region, Fairfax County is located in a federal one-hour and new eight-hour ozone non-attainment area. In addition to ozone, the region anticipates being classified in non-attainment for the new federal fine particulate matter standard (PM_{2.5}) later this year. The Washington region is expected to submit an air quality management plan demonstrating compliance with the new standards to the EPA in 2007.

In collaboration with other state and local governments in the region, Fairfax County is seeking additional ozone reduction strategies to include in air quality management plans. Urban trees intercept, absorb, and store significant levels of air pollutants including ozone. In Fairfax County, trees currently cover 43% of the County's landmass and remove millions of pounds of air pollutants each year (estimated at 5.5 million pounds per year in 1997). Yet, the regulatory framework of the Federal Clean Air Act, and the current modeling processes used by the Environmental Protection Agency (EPA) and state air quality officials do not recognize the global effect of trees on ambient ozone concentrations. As a result, localities cannot use tree cover or tree-related policies as acceptable ozone reduction measures in their local air quality management plans.

Part of the reason for lack of acceptance of trees as ozone reduction measures is that trees previously were considered a significant source of ozone precursors; however, recent research demonstrates that trees typically contribute less than 1% of the total volatile organic compounds that are released in urban areas. As a result the Forest Service and EPA are working to resolve the many technical issues and to investigate opportunities to fit tree-related air quality contribution into the existing federal regulatory framework and computer models. In the meantime, adoption of the proposed resolution would prompt the Virginia Department of Environmental Quality to analyze current research, and encourage development of a policy allowing localities to use tree-related measures in Virginia's State Implementation Plan, including Fairfax County's portion of the air quality plan prepared by the Metropolitan Washington Air Quality Council.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2005 Virginia General Assembly**

2. HUMAN RIGHTS ORDINANCE -- SEXUAL ORIENTATION

Initiate legislation to permit the County, as an urban county executive form of government, to prohibit discrimination in the areas of housing, real estate transactions, employment, public accommodations, credit, and education on the basis of sexual orientation. Fairfax County already has taken actions pursuant to existing State enabling legislation in the preceding areas on the basis of race, color, religion, sex, pregnancy, child birth, and disability. (Updates and reaffirms previous initiative).

Presently, the Fairfax County Human Rights Ordinance does not prohibit discrimination against persons on the basis of sexual orientation. The Human Rights Commission in 2000 studied the need to add sexual orientation protections and issued a report to the Board of Supervisors documenting the need for the added protection and recommending that the Ordinance be amended to include sexual orientation as a protected class.

In response to the Commission's report, legislation was introduced in the 2001 and 2002 General Assembly Sessions at the request of Fairfax County which would have enabled the County to amend its existing Human Rights Ordinance to prohibit discrimination based on sexual orientation in the areas of housing, real estate transactions, employment, public accommodations, credit, and education. Senate Bill No. 1147 failed in the Senate Local Government Committee when it was passed by indefinitely in 2001; House Bill No. 750 was passed by indefinitely in the House Committee on Counties, Cities and Towns in 2002; House Bill No. 2420 was passed by indefinitely in House Counties, Cities and Towns in 2003; and House Bill 880 was passed by indefinitely in Counties, Cities, and Towns in 2004.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2005 Virginia General Assembly**

3. MOTOR VEHICLES -- MOPEDS, POCKET BIKES AND SCOOTERS

Initiate legislation to amend Va. Code § 46.2-1051, which applies only to Northern Virginia, to prohibit the operation on public roads of certain motorized vehicles, including motorized scooters and pocket bikes, that do not operate with wheels of at least 10 inches in diameter. Initiate legislation that will increase penalties for violating present law.

Law enforcement officials are facing an increasing public safety problem with the proliferation of small motorized vehicles (including mopeds, small gas-powered mini-motorcycles known as “pocket bikes” and gas-powered scooters) operated by young riders on public roads. Many parents are unaware of existing law, which prohibits children under the age of 16 from operating these small vehicles on public roads. In addition, police must deal with a myriad of somewhat confusing and overlapping statutes.

Present law defines a motor vehicle as any vehicle that is self-propelled; therefore, any vehicle with a motor. Present law treats mopeds as a special subset of motor vehicles and does not require a license to operate mopeds. In many cases, motorized scooters and pocket bikes fall under the current definition of moped due to their small engine size and limited maximum speeds. Operation of all motor vehicles, including mopeds, is not permitted on public roads unless the driver is at least 16 years old and the vehicle is equipped with a seat. Therefore, persons under the age of 16 presently are not permitted to operate motorized scooters and pocket bikes on a public road and motorized scooters that are not equipped with a seat presently are not permitted. In order to obtain greater compliance with present law, the General Assembly should adopt legislation that would increase penalties for violations of such law.

To prohibit the operation of motorized scooters and pocket bikes that are permitted under present law, which includes those equipped with a seat and operated by users 16 years of age and older, legislation is necessary. The General Assembly should amend present law to require certain motorized vehicles to operate with wheels of at least 10 inches in diameter, which would prohibit the use of all motorized scooters and certain pocket bikes, due to their small wheel size. A subset of pocket bikes, however, may not be covered by this amendment due to larger wheel sizes. Although this amendment may not cover all pocket bikes, the 10 inch diameter minimum in the amendment cannot be exceeded without affecting the use of presently-permitted larger-sized mopeds and motorcycles, which might raise concern with other interested parties.

Further study may be necessary on this issue to achieve a solution that will prohibit the operation of all pocket bikes on public roads. The problems/solutions associated with the operation of small motorized vehicles on public roads are currently being studied by other states, as well.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2005 Virginia General Assembly**

4. PARKING -- COMMERCIAL VEHICLES

Initiate legislation that would allow Fairfax County to regulate or prohibit the parking of trailers, semi-trailers, vehicles with three or more axles, vehicles with a gross weight of 12,000 or more pounds, and vehicles designed to transport 16 or more passengers including the driver on non-residential public streets that do not meet current VDOT minimum street standards.

During the 2003 Session of the General Assembly, Va. Code § 46.2-1222.1 was amended (HB 1730) to enable certain counties, including Fairfax County, to regulate or prohibit the parking of the types of vehicles listed above on residential streets.

This proposal seeks authority to regulate or prohibit by ordinance the parking of the same classes of larger vehicles that may now be regulated or prohibited on residential streets on non-residential streets that do not meet current VDOT minimum street standards. This proposal would allow the County to prohibit the parking of large vehicles on narrow streets, including streets that are in non-residential areas. The parking of these larger classes of vehicles on substandard roads can create sight distance and other safety problems.

Fairfax County DRAFT LEGISLATIVE INITIATIVES
2005 Virginia General Assembly

5. TRANSPORTATION -- BLUE STAR MEMORIAL HIGHWAY

Seek legislation to designate the entire length of Route 1 in Fairfax County as the Blue Star Memorial Highway.

The concept of Blue Star Memorial Highways was originated in 1944 by garden clubs to beautify highways with plantings as a living memorial to service members. The name (Blue Star) was taken from the blue star in the World War II Service Flag and is the centerpiece of the memorial signs. The Service Flag was displayed in many homes as a tribute to the men and women serving in the Armed Forces during World War II. While the program originally began to honor World War II veterans, it was expanded in 1951 to include all men and women who had served, were serving, or would serve in the Armed Forces of the United States. A Blue Star Memorial Highway is intended to show respect and appreciation for the members of the Armed Forces of the United States.

Currently, in Fairfax County, Richmond Highway is designated as a Blue Star Memorial Highway from the Occoquan River to Route 235, Mount Vernon Highway. In order to place another Blue Star marker, as requested, the designation will need to be expanded. General Assembly action is needed to designate the entire length of Richmond Highway (Route 1) in Fairfax County is designated as a Blue Star Memorial Highway.

COUNTY POSITIONS

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

1. AIR QUALITY -- CLEAN SMOKESTACK ACT

Support legislation that requires public utilities that own or operate coal-fired generating units to reduce their emissions of nitrogen, sulfur dioxide and mercury.

Fairfax County does not meet federal air quality standards for ozone or smog. In 2002, the Environmental Protection Agency downgraded the Washington area's air quality from serious to "severe," which will jeopardize the receipt of federal transportation funding unless the situation is improved. Ozone is a serious health hazard and is destructive to plant life, crop production and tree and plant foliage. A major cause of ozone or smog in Fairfax County is industrial emissions produced elsewhere and blown into the area.

In 2004, HB 1472 (The "Clean Smokestack Act") proposed to require specific reductions in the emissions of oxides of nitrogen, sulfur dioxide and mercury from coal-fired generating units. Permits issued by the Air Pollution Control Board would have to provide for testing, monitoring, record keeping and reporting to assure compliance with the reduction requirements.

The bill also would authorize the Governor to enter into agreements with the utilities to transfer to the state any emissions allowance that may be acquired by the utilities under federal law. The Department of Environmental Quality and the State Corporation Commission (SCC) would be required to report annually on the status of the emissions reduction and cost recovery efforts. In addition, DEQ would be required to analyze and report on implementation of standards and plans to control carbon dioxide (CO₂) from coal-fired generating units. The bill would authorize the SCC to adjust the rate caps established by the Electric Utility Restructuring Act to account for the environmental compliance costs incurred by the utilities in carrying out the provisions of the Clean Smokestack Act.

HB 1472 was continued to the 2005 session in the Committee on Agriculture, Chesapeake Bay and Natural Resources. The Board supports this or similar legislation to achieve a reduction in ozone and smog.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

2. CONSERVATION -- TREE ORDINANCE

Support legislation to amend Va. Code § 15.2-961 to give the County expanded authority to adopt tree conservation and replacement authority during the development process. Legislation should permit localities to increase current tree canopy requirements and to require conservation of existing trees. (Reaffirms previous position.)

In the 2002 session, SB 484 would have authorized certain localities (including Fairfax County) to increase tree canopy requirements from 15% to 20% for residential sites zoned between 10 and 20 units per acre and from 20% to 30% for residential sites zoned for 10 or fewer units per acre. SB 484 also would have authorized the localities to require conservation of existing trees and to disallow certain types of trees from being planted to meet minimum tree canopy requirements. SB 484, which was based on a Fairfax County initiative, was continued to the 2003 session, but ultimately was left in committee.

During the 2003 session, SB 1013 amended Va. Code §15.2-961 to require localities to reduce the tree canopy requirement in consideration of preservation of existing cover or for preservation of trees of outstanding age, size or physical characteristics, and authorized localities to designate certain species that cannot be planted to meet minimum tree canopy requirements. However, it did not authorize localities to increase tree canopy requirements nor did it authorize localities to require conservation of existing trees. In the 2004 session, HB 1479, which contained provisions similar to SB 484 relative to increased tree canopy requirements and conservation of existing trees, was continued to 2005 in Counties, Cities and Towns.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

3. FUNDING -- HUMAN SERVICES *(Revises and updates previous positions.)*

There are many human services needs that demand an appropriate response from both the State and local governments, and both State and local government officials struggle with meeting these needs while responding to the other demands. This year, the Board has chosen to focus upon two areas where revisions to the State's policies and practices can most successfully leverage state funds to meet the Commonwealth's responsibility in caring for the neediest – Aging and Long Term Care Services, and Medicaid. A White Paper addressing other Human Services funding issues is being developed for presentation to the Fairfax County Delegation at the December 14, 2004 breakfast meeting.

Aging and Long Term Care *(Revises previous position.)*

Support legislation and budget amendments designed to reform Virginia's current system of oversight of Virginia's Assisted Living Facilities (ALF) to assure safe and quality care.

A. Require Consistent and Comprehensive Information for Consumers – All Assisted Living Facilities should be required to provide common elements of information for “comparison shopping,” including: services provided; fees; criteria for admission, policies for transfer between levels and discharge; numbers and qualifications of staff on each shift; activities available to residents; and complaint procedures.

B. Improve Staff and Administrative Qualifications and Training Requirements – The chief administrator for each facility should be licensed to assure a minimum level of training in the management of ALFs. All personal care staff should be Certified Nursing Assistants, and Medication Aides should be CNAs with added training on medications.

C. Assuring Compliance with Regulations – Facilities that fail to comply with the DSS Regulations governing the operation of ALFs in Virginia should be subject to a system of graduated penalties, including: fines for noncompliance, with the maximum fine increased to \$10,000; an expedited process for suspension of facility licensure; mechanisms to prevent closures necessary by non-compliance through temporary assignment of management; more frequent inspections of facilities with significant violations; an increase in the number and professional training of DSS inspectors; and assure consistent statewide training for inspectors.

D. Increase Public Funding – ALFs are asked to provide short- and long-term care assistance for persons with a wide range of care needs. In this setting, these services are generally not eligible for Medicaid reimbursement; therefore, Virginia's Auxiliary Grant program must be revamped to provide appropriate support that matches the cost of ALF care. The Auxiliary Grant rate should be raised by 100% statewide from \$894 to \$1,788, and in Northern Virginia from \$1,028 to \$2,056. Furthermore, the Northern Virginia differential must be increased above the current 15%. Under current state practice, increasing the Auxiliary Grant rate also serves to increase the income limits, thereby expanding the number of low income Virginians eligible for this assistance. The requirement that local governments support 20% of the Auxiliary Grant payment should be eliminated.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

3. FUNDING -- HUMAN SERVICES (Cont.)

Medicaid *(Revises and updates previous position.)*

Support revisions to Virginia's State Medicaid Plan that improve the State's position in leveraging the federal funds available through the Medicaid program to meet the fundamental health care needs of the State's most vulnerable citizens. This objective can be achieved by:

A. Improve eligibility limits – Virginia's eligibility limits are among the most stringent in the country. These limits are used to manage general fund demands; however, the needs of those who fall above these limits do not change. Two areas requiring review:

- Raise eligibility for the frail elderly, blind or disabled from the current 80% of the federal poverty level (\$9,310 for a single adult; \$12,490 for a family of 2) to 100% of federal poverty, thereby sharing the care costs now provided by local governments, hospitals, and private providers.
- Increase the level of eligibility for pregnant women to 200% of Federal Poverty, matching the current limits on eligibility for children under the FAMIS program.

B. Increase payment rates for critical services – Studies of Virginia Medicaid rates paid for care regularly find that Virginia's rates fall below costs and the rates available through other payors. Low payment rates work as disincentives to providers in maintaining and developing services reimbursable under Medicaid. Rates for many Medicaid-eligible services must be increased to meet requirements for community-based care throughout the Commonwealth, including: obstetrical services; adult day health care services; personal care; dental care; congregate living, in-home supports, day programs for persons with mental retardation, and EMS ambulance services.

Any rates that do not include a Northern Virginia differential to account for the higher cost of doing business in this part of the State should be revised to include an additional 15% over the base rate.

C. Enhance options for long term care services – PACE is an integrated system of care for the frail elderly that offers and manages all health, medical and social services needed to support seniors in the least restrictive environment. The PACE Model of long term care has demonstrated success in other states, caring for nursing home certified populations on a pre-paid, capitated budget. Its goal is to: enhance the State's ability to predict costs for the long term care population; reduce the use of inpatient services, including both hospital and nursing home care; and improve outcomes for comparable individuals served in the traditional Medicare/Medicaid settings. The County's efforts to develop a PACE Model for seniors in Northern Virginia have not really been possible under Virginia's current Medicaid State Plan.

D. Support the development of community-based services – To enhance the State's compliance with its Olmstead Plan, certain services should be added to Virginia's Plan, including at least dental services for adults; Substance Abuse Treatment services; and an increase in the MR Waiver slots to further reduce waiting lists.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

4. FUNDING -- JAIL OPERATIONS

Support additional State revenues to compensate localities at a level which is commensurate with the State's responsibility for local jail operations. Specifically, the State should take the following actions:

- 1. Adequately compensate local jails for state prisoners at a reimbursement rate that recognizes actual housing, food and medical costs.** The amount of reimbursement for State inmates at a local jail was established almost 20 years ago. The rate, established in 1987, is \$8 per day and rises to \$14 per day on the 61st day after a court-ordered conviction. This unreasonably low reimbursement is used to house, feed, clothe and medicate State inmates; in Fairfax County, this confinement cost is approximately \$125 per day. The effect of this low State compensation is that localities are subsidizing the State correctional system.
- 2. Meet its statutory requirement to transfer State-ready inmates (prisoners who have reached the 61st day after a court-ordered conviction) to State facilities in a timely manner.** Pursuant to Va. Code § 53.1-20, State prisoners being held in the County's Adult Detention Center (ADC) who have reached the 61st day after their court-ordered conviction are to be placed into the State corrections system within sixty days of the date on which the final sentencing order is mailed by the Clerk of the Court. In summer 2004, there were 120 such State inmates in the Fairfax County ADC that needed to be moved immediately to a State correctional facility. The presence of these prisoners exacerbates an already-overcrowded local facility, which has 798 cells operating but which has had an average daily inmate population of 1,253 in 2004 (and peaked at 1,313 in November 2003). The County ADC's State-rated single-bunking capacity is 1,260 but additional cell space has not been opened due to the lack of available funding.
- 3. Appropriate funds to fulfill the Compensation Board's commitment to local jails; a Northern Virginia pay differential should be established for salary reimbursements for State-approved positions, to reflect the highly competitive Northern Virginia job market.** For the past several years, the State Compensation Board has failed to fund eligible Fairfax County deputy sheriff positions which are recognized by State-approved ratios. Despite a staffing ratio of 1 deputy sheriff per 3 inmates for the 1,260 State-rated capacity of the ADC, the State funds only 290 of 420 eligible deputy sheriff positions; unfunded are 130 eligible deputy sheriff positions. In addition, the rate at which the funded positions are reimbursed is insufficient to fund salary costs in Northern Virginia. Currently, the Compensation Board's reimbursement to Fairfax County funds only 76 percent of eligible full-time positions and covers only 28 percent of their cost. The insufficiency of the State funding level is exacerbated by the high costs in the competitive Northern Virginia job market.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

4. FUNDING -- JAIL OPERATIONS (Cont.)

- 4. Recognize new State mandates, such as the recent revisions to DUI laws, through additional State funding to localities to assist with the increased local confinement costs for new and repeat offenders.** The recently enacted DUI legislation from the 2004 General Assembly will have a significant impact on the County's local ADC inmate population. Although the General Assembly's strong stand against drunk drivers is laudable, this tough stance is not without fiscal cost. Most offenders convicted under these new laws will be required to serve additional jail time (All under a year); therefore, all are considered local prisoners at local cost. For example, the revision to just one law, the minimum mandatory sentencing for a blood alcohol level of 0.15 to 0.20 for first offenders, is anticipated to increase the County's average monthly inmate count by 90.

Fairfax County is now facing a number of important issues surrounding the continued growth in the Fairfax County Adult Detention Center (ADC) inmate population and the available capacity of the ADC to handle the ongoing increase and frequent surges in population. The significant increase in local inmate population and the forecast for future growth will exceed the County's ability to safely house inmates in the near future. While Fairfax County and other local governments rely on the State's commitment to share the cost of operating the ADC, in recent years funding from the State has not kept pace with either the costs of incarceration, the growth in Fairfax County's inmate population, or new State mandates which will increase the local jail population.

Fairfax County has borne a disproportionate burden of supporting jail confinement costs and has had to resort to reductions in other necessary programs to identify funds that either cover the State shortfall or that cover costs resulting from State action. These costs have limited the County's ability to provide much needed tax relief to homeowners who have borne, nearly exclusively, the increased cost of County services and programs, including ADC operations and public safety services.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

5. FUNDING -- PUBLIC SAFETY HB 599 PROGRAM

Support full funding of the HB 599 law enforcement program, to include continuation of annual increases in accordance with the State General Fund as required by Va. Code §§ 9-183.13 through 9-183.21. The State should fully fund its commitment to this public safety program so that the funding is stable and equitable and can be relied upon to help fund preparedness and other important local law enforcement needs. Historically, State HB 599 funding has been plagued by inconsistency and repetitive reductions reflecting State budget shortfalls. (Revises and updates previous position.)

As a result of HB 599 funding, Fairfax County and other local governments with police departments have been able to fund previously unmet law enforcement needs. In an ever-changing world, those needs that must be addressed are significant and diverse, including homeland security and youth gangs. The HB 599 program represents the State's effort to support law enforcement efforts in localities with police departments; the funding helps to provide greater equity with State assistance for local governments with sheriff's departments.

However, there continues to be local concern over the stability and inconsistency of the HB 599 funding; while fully funded in the late 1990's after years of flat funding, State actions to balance shortfalls continued to impact full funding. Most recently, due to a \$6 billion shortfall in the State General Fund revenue in FY 2003 and FY 2004, the 2003 General Assembly Session and the Governor reduced HB 599 funding by \$5.5 million statewide in FY 2003 and FY 2004. This action froze the HB 599 funding at the FY 2003 level, which already contained a \$12.5 million statewide cut.

In 2004, the approved budget includes an increase in state-wide HB599 funding based on the rate of State General Fund revenue growth prior to adoption of tax reform and the resulting budget. In addition, language was added to the budget that it is the intent of the General Assembly that these funds be used for public safety and that State funding provided shall not be used to supplant funding provided by localities for public safety purposes as of June 30, 2004.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

6. FUNDING -- VIRGINIA LAND CONSERVATION FUND

Support increased funding for the Virginia Land Conservation Fund (VLCF).

Since 2000, State General Fund allocations to agencies responsible for natural resources have been dramatically reduced. Less than one percent of Virginia's budget is spent on natural resources. Prior to the 2004 legislative session, Virginia ranked 50th in the nation for per capita spending on natural resources.

Virginia is losing its open space, historic sites, forests and farms at an alarming rate. Studies have found that nearly one-half million acres of prime Virginia farmland were lost between 1987 and 1997 and an average of 54,000 acres of forestland was lost each year between 1992 and 2000. The Virginia Land Conservation Fund was created to provide matching funds to protect land for conservation purposes. It leverages federal, local and private investment to protect farms, forests, open space, parks, natural areas and historic resources.

Natural resource funding was improved somewhat with passage of the 2004-06 biennium budget; since 2000, the VLCF had received no funding. The 2004-06 biennium budget includes \$2.5 million each year of the biennium for the VLCF. This additional investment in land conservation, while welcome, is inadequate to meet the enormous needs of the Commonwealth. For example, prior to the 2004 session, the Northern Virginia Regional Commission and the VML have supported a minimum annual funding of \$50 million for the VLCF. And the Virginia Conservation Network has called for the State to set a goal of 2% of the general fund budget to be appropriated for natural resource funding.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

7. FUNDING -- WATER QUALITY IMPROVEMENT FUND

Support increased funding for the Water Quality Improvement Fund (WQIF) with consideration of a dedicated source of revenue.

According to a study by the Chesapeake Bay Commission, Virginia has grossly inadequate funding to achieve water quality commitments made when it signed the Chesapeake 2000 Agreement. That agreement includes a pledge to conserve land in the Chesapeake Bay watershed and reduce pollutants flowing into the Bay. The Water Quality Improvement Fund (WQIF) makes matching grants to finance water quality improvements, including restoration of the Chesapeake Bay and its tributaries.

Natural resource funding was improved somewhat with passage of the 2004-06 biennium budget; since 2000, the WQIF had received no funding. The 2004-06 biennium budget includes \$15 million each year of the biennium for the WQIF. This additional investment in water quality, while welcome, is inadequate to meet the enormous needs of the Commonwealth. For example, prior to the 2004 session, the Northern Virginia Regional Commission and the VML have supported a minimum annual state general fund appropriation of \$30 million for the WQIF. And the Virginia Conservation Network has called for the State to set a goal of 2% of the general fund budget to be appropriated for natural resource funding.

**Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly**

8. LAND USE -- ADEQUATE PUBLIC FACILITIES ORDINANCE

Support legislation to applicable laws governing subdivision and zoning ordinances to give localities authority to adopt an adequate public facilities ordinance. Legislation should permit localities to adopt provisions in their subdivision ordinances for deferring the approval of subdivision plats or site plans when it is determined that existing schools, roads, public safety, sewer or water facilities are inadequate to support the proposed development. Legislation should also provide that an expressed purpose of zoning ordinances is to protect against an undue rate of development in relation to existing or available public facilities. Such legislation should not require the localities to construct the necessary infrastructure within a timeframe established by the General Assembly.

In past legislative sessions, numerous bills were introduced in the House and the Senate to authorize adequate public facilities ordinances. During the 2004 session, HB 893 and HB 729 were continued to 2005 in the Committee on Counties, Cities and Towns. In the 2003 session, HB 1538, HB 1539 and HB 1560 were tabled in the Committee on Counties, Cities and Towns and SB 1029, SB 1292 and SB 1126 were referred to the Growth and Economic Development Commission.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

9. LAND USE -- TRANSFERABLE DEVELOPMENT RIGHTS

Support legislation that would authorize local governments, by ordinance, to establish a Transferable Development Rights (TDR) program with the caveat that disincentives for localities to enact TDR ordinances are not part of such legislation, such as a prohibition on the rezoning of property in the sending and receiving zones after the adoption of a transferable development rights program. (Reaffirms previous position.)

Under a traditional TDR program, specific sending and receiving zones would be identified within a given locality. A developer would purchase some or all of the permitted development rights from parcels located within a sending zone and would then build the attributable density/intensity on land located within a receiving zone. The development of such transferred density would be in addition to the development potential otherwise permitted on the receiving parcels. Since at least the 1990 Session of the General Assembly, there have been several unsuccessful bills introduced that, if passed, would have authorized local governments to adopt TDR ordinances. The Board of Supervisors has historically endorsed the concept of legislation that would grant additional flexibility to local governments to establish TDR programs.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

10. PUBLIC SAFETY -- 24 HOUR-LOCKOUT FOR COMMERCIAL EVICTIONS

Support legislation to amend Va. Code §55-237.1 and §55.24.38:2 to extend the “24-hour lockout” rule to businesses regarding both business and personal property. This proposal would allow landlords the option of evicting all property from within the premises to the right-of-way, or using a “24-hour lockout” provision to store the property.

Business evictions tend to take a great deal of time and are costly for the Office of the Sheriff as well as for the other parties involved. Under the current law, the landlord has no option but to remove the evicted property to the public right-of-way. This proposal would benefit the plaintiff and the defendant. For the defendant, it would protect business property for an additional 24-hour period rather than placing it immediately on the street. Plaintiffs would benefit from having available a less costly option. If they do not exercise that option immediately, then all property would be moved to the public right-of-way (at their expense).

The Office of the Sheriff would benefit from a savings in staff time which could be spent on other public safety tasks. The time required to execute a business eviction now ranges from 2 hours to 3 days; this is time that the deputy must be on site to oversee the proper transfer of property. If a “24-hour rule” could be applied, the deputy’s presence would be required for approximately 30 minutes during the changing of locks on the premises. After giving the defendant reasonable access for a 24-hour time frame, the landlord then can dispose of the remaining property as deemed appropriate.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

11. PUBLIC SAFETY -- DANGEROUS WEAPONS IN PUBLIC FACILITIES

Support legislation to allow the County to adopt an ordinance prohibiting the possession of dangerous weapons in or on any facility or property owned or leased by the County, with certain exceptions, including any person who has been issued a permit to carry a concealed handgun. Violation of such an ordinance would be punishable as a misdemeanor. It is particularly important that the County have such authority for any facility or property owned or leased by the County serving large populations of youth under the age of 18. (Updates previous position.)

Va. Code § 15.2-915 generally prohibits localities from regulating the possession or carrying of firearms, and the Fairfax County Circuit Court has ruled that this statute does not permit Fairfax County to prohibit persons from bringing firearms into buildings that are owned or used by the County government. However, private property owners in Virginia generally are able to decide whether or not to permit dangerous weapons on their own property; private property owners can even prohibit the carrying of a concealed handgun even when the individual has a concealed handgun permit. Virginia law also prohibits firearms and other dangerous weapons in several areas. For example, it generally is illegal to carry a firearm into a place of worship (Va. Code § 18.2-283), into a courthouse (Va. Code § 18.2-283.1), or onto the property of a public or private school (Va. Code § 18.2-308.1).

The General Assembly should enact enabling legislation that would permit Fairfax County and other localities to adopt a similar prohibition on administrative offices, board meeting rooms, mental health facilities, police stations, tax offices, recreation areas (including teen centers and community centers), welfare facilities and other properties. Such enabling legislation should provide exceptions for firearms carried by any law enforcement officer or game warden, any special police officer, any magistrate or judge, and any person who has been issued a permit to carry a concealed handgun pursuant to Va. Code § 18.2-308(D).

Historical Perspective – County efforts

The Board of Supervisors has previously initiated legislation to allow Fairfax County to adopt an ordinance prohibiting the possession of dangerous weapons in or upon certain or any facility or property owned or leased by the County:

- In 1996 House Bill No. 116 and Senate Bill No. 100 were introduced by the County and were amended to include the City of Alexandria and Prince William and Arlington Counties. These bills would have allowed the County to prohibit the possession of dangerous weapons in County facilities.
- In 1997 the Board initiated legislation (House Bill No. 1946 and Senate Bill No. 763) which would have allowed the County to ban dangerous weapons in teen centers.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

11. PUBLIC SAFETY -- DANGEROUS WEAPONS IN PUBLIC FACILITIES (Cont.)

- In 1998 the County again initiated similar legislation to allow banning of dangerous weapons in teen centers (Senate Bill No. 130).
- In 2000 the Board initiated legislation similar to that in 1996 (House Bill No. 148 and Senate Bill No. 425) which would have allowed the County to ban dangerous weapons in county-owned or operated facilities.
- In 2001 the Board initiated legislation (Senate Bill No. 934) which would have allowed the County to ban dangerous weapons in county-owned or operated facilities. A substitute for Senate Bill No. 934 narrowed the scope of the original bill, but still would have allowed Fairfax County to prohibit dangerous weapons in recreation centers and police stations.
- In 2002 the Board again initiated legislation (Senate Bill 424) to allow the County to ban dangerous weapons in County-owned or operated facilities. In response to testimony at the County's public hearing on the proposed legislative package, the Board decided not to include bans on weapons carried by persons with valid concealed carry permits as part of the proposed legislation. Despite this concession, the bill was not reported by the Senate Courts of Justice Committee.

A similar bill (House Bill No. 1017) would have prohibited the possession of a handgun in any County-owned building. The bill was initially carried over by the House Committee on Militia, Police and Public Safety and then amended during the Committee's reconsideration of the legislation. In its final form the bill would have prohibited the possession of handguns only in the specific council or board chamber where the governing body regularly meets. The measure was passed by indefinitely with only three members voting in favor of the legislation.

- In 2003 the Board again initiated legislation (Senate Bill No. 964) to allow the County to ban dangerous weapons upon the property of any County-owned or operated facilities. The bill would have required that any such ordinance provide for appropriate exemptions for educational, instructional, theatrical, and historical events. Also, any such ordinance could not be applicable to public streets, roads, or highways that are within the County, but could have been made applicable to the access roads and parking areas for the facilities that were subject to the ordinance. The bill was defeated 7-8 in Senate Local Government. The patron later tried to revive the bill on the Senate Floor by attempting to add it as an amendment to House Bill 1516. The amendment was rejected by a vote of 11-25.

The above County bills and similar authorizing bills initiated by individual Fairfax County legislators to prohibit dangerous weapons in County buildings and/or teen centers (introduced during the 1996, 1998, 1999, 2000, 2001, and 2002 Sessions) were killed in committee. Only Senate Bill No. 763 (1997 GA) passed the General Assembly; however, the bill was vetoed by the Governor.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

11. PUBLIC SAFETY -- DANGEROUS WEAPONS IN PUBLIC FACILITIES (Cont.)

Historical Perspective – General Assembly Actions

In 2002 the General Assembly broadened an existing statutory prohibition against local government control of firearms by passing Senate Bill No. 593; that legislation amended Va. Code § 15.2-915 to require that any local ordinance regulating firearms shall be based only on a specific statute that expressly refers to firearms. Enactment of legislation based on the County's 2002 proposal (Senate Bill No. 424) would have met that new statutory requirement.

In 2004, House Bill No. 278 was passed by indefinitely in Militia, Police and Public Safety; the bill would have allowed localities by ordinance to provide for the regulation of possession or carrying of firearms into any buildings owned or used by such locality for governmental purposes. The bill also would have deleted various provisions that currently generally prohibit local regulation of the purchase, possession, transfer and ownership of firearms.

In 2004, the General Assembly also enacted legislation that repealed legislation enacted in 1944 that permitted certain counties, including Fairfax County, to require a local permit from the police chief for the purchase of a handgun. That 2004 legislation also required localities that had records of such permits to destroy those records by July 31, 2004. Records of those handgun permits have been destroyed in accordance with that statutory requirement.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

12. REVENUE CAPACITY AND CORE LOCAL NEEDS *(Revises and updates previous position.)*

Local governments agree that a sound State and local tax system is vital to the long-term fiscal integrity of both the Commonwealth and its local governments. Significant State revenue changes were enacted during the 2004 extended session, particularly to fund the State's responsibility for K-12 education; these legislative actions will help to address pressure at the local level if sustained by the State over time. However, the local tax structure was not significantly changed and continues to be overly-dependent on the property tax. The local tax structure is becoming antiquated and lacks the diversification necessary to fund ever-growing local core services/needs and is not designed to adapt to the ever-changing nature of an increasingly service-oriented and technologically-driven economy.

Fairfax County is prepared to work with State leaders to continue consideration of a variety of policy options to balance the current State/local tax structure and to maintain and further the recent increases in SOQ funding. The State now must also focus to increase funding for the following State and local shared responsibilities: school construction and technology, implementation of the State Board of Education SOQ revisions and federal/State educational accountability programs [including the Standards of Learning (SOL) and No Child Left Behind (NCLB) Act requirements], clean-up of the Chesapeake Bay, local law enforcement (HB 599 program), jail operations, and human services needs. Additionally, the State's responsibility for transportation funding continues to be a critical issue for action by the 2005 General Assembly. These issues are more fully explained and outlined in specific positions contained later in this legislative program.

Among the available revenue options which should be considered by the State and which the County has historically supported are:

- the granting to counties of equal taxing authority with that currently provided to cities and towns, without a State-mandated dedication of those revenues;
- reducing the dependency on the property tax through a broadening of the local revenue base;
- examining State or local tax bases that may be antiquated and may not reflect the changing economy or changes in technologies; and/or
- returning a portion of the State individual income tax to localities as net new revenue for unrestricted local use – this money would be in addition to existing State aid and could be used to address pressing public education and other local needs.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

12. REVENUE CAPACITY AND CORE LOCAL NEEDS (Cont.)

It is equally important that the State not take actions that:

- cap the local real estate tax rate – not including the real estate tax, 90% of Fairfax County revenues are capped, limited, or controlled by the State. A cap on the real estate tax would further erode the local tax structure’s flexibility and capacity and could jeopardize a locality’s bond rating;
- decrease local revenues or decrease opportunities for raising revenues at the local level (such as capping BPOL);
- add State taxes or surcharges on locally-provided services to provide revenue for State responsibilities;
- expand the dependency of localities on revenue-sharing mechanisms controlled by the State. Such so-called “revenue neutral” solutions are short-sighted.

Such actions do not allow localities to structure the local tax base to reflect the local economy or the needs and aspirations of their residents.

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

13. TELECOMMUNICATIONS -- TAX RESTRUCTURING AND OTHER POSITIONS

(Revises and updates previous position.)

The telecommunications industry continues to change rapidly as a result of the Telecommunications Act of 1996. Federal and state governments continue to be pressured by industry representatives to eliminate or restrict local governments' existing authority over the telecommunications industry. Additionally, telecommunications representatives have promoted tax simplification and rate reduction under the umbrella of "tax reform."

As a result of lobbying by telecommunications industry representatives at the State level, a legislative study was created to reform State and local telecommunications taxes. This is the third year of that effort. The 2004 General Assembly adopted legislation (HB 1174, Chapter 634) to establish the framework for a transition to a new system for taxing telecommunication services in the Commonwealth. The bill requires the collection of FY 2004 local tax revenue and industry revenue data (based on local rates adopted as of July 1, 2003); these findings are to be reported to the House and Senate Finance Committees by October 15, 2004. An appointed working group of industry and local government representatives is to make recommendations by November 15, 2004 regarding: an authority or third party to receive and disburse revenues; a distribution methodology for apportioning revenues; and a centralized and uniform audit.

In response to the telecommunications industry's proposed changes to the local tax structure, Fairfax County supports the following principles and positions:

- A. *Oppose any reduction or diminution of local government authority to address consumer needs, to regulate consumer services and use of rights of way, and to tax telecommunications providers.*
- B. *Any changes which are contemplated as part of any taxing or regulatory "reform" package:*
 - 1. *should be revenue neutral to individual localities (i.e., should result in maintaining the current level of telecommunications tax revenue to individual localities) and should anticipate "future growth" of telecommunications services and broaden the telecommunications tax base to balance any rate reduction of existing fees and taxes; this should include services not presently taxed;*
 - 2. *should include a reconsideration of current state-prescribed tax policies and tax preferences that do not reflect changes in the regulation and the competitiveness of various telecommunications' industries or technologies;*
 - 3. *should require providers of telecommunications services annually to report uniform verifiable data that will permit accurate collection and distribution of the revenues from the proposed telecommunications sales tax;*

Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly

13. TELECOMMUNICATIONS -- TAX RESTRUCTURING AND OTHER POSITIONS
(Cont.) (Revises and updates previous position.)

4. *should maintain the authority for local taxation of all voice to voice communication, by current or future technological means;*
5. *should maintain the tax as a local tax; however, if local taxing authority is eliminated, it is especially critical that any proposal be considered within the context of an overall tax reform package which addresses state and local authority;*
6. *should not impact local regulatory authority directly or indirectly and should recognize the cable franchise fee as the fee paid to a locality for the for-profit cable operator's use of public land and rights-of-way; should not classify this franchise fee as a telecommunications tax;*
7. *should specify third party and not State administration of the tax revenue; further, the collection function must retain a verifiable audit requirement; and*
8. *should increase the proposed E 911 rates to: (a) provide adequate funding for local public safety answering point (PSAP) expenditures, including critical communications equipment and personnel to address homeland security needs, (b) to stabilize the Wireless E 911 fund; and (c) ensure that the migration of traditional wireline telephone services to Internet Protocol-based network systems will not preempt or preclude local governments' E 911 taxing authority.*

Fairfax County also maintains the following related telecommunications positions:

- C. *Oppose any preemption or circumvention of local governments' historical control over land use decisions and oppose any attempt to eliminate local governments' rights to charge, on a non-discriminatory basis, fair and reasonable compensation for use of public property (Reaffirms previous position.)*
- D. *Specifically support restricting the Virginia Department of Transportation's (VDOT's) ability to allow the construction of commercial mobile and land-based telecommunications facilities (e.g., monopoles, towers, and related structures) without prior approval of the affected locality's land-use and/or zoning authority. (Reaffirms previous position.)*
- E. *Oppose any reduction, preemption, or circumvention of VDOT or the County's authority to manage and oversee highway rights-of-way or the County's authority to manage its property. (Reaffirms previous position.)*

**Fairfax County DRAFT LEGISLATIVE POSITIONS
2005 Virginia General Assembly**

14. YOUTH -- FAIRFAX PARTNERSHIP FOR YOUTH

A. Support legislation to require regular statewide application of a comprehensive youth risk behavior survey in sufficient numbers for local sub-unit analysis. *(Updates and reaffirms previous position.)*

In order to respond effectively to the needs and problems of their youth, communities need timely and accurate information on the types and prevalence of a variety of behaviors that place youth at risk. Confidential surveys have proved to be a valid and reliable method for acquiring and tracking such information, including both positive and negative trends. The information from youth risk behavior surveys is essential in targeting the problems most in need of intervention, and in measuring the impact of programs and other factors on those problems over time.

B. Reinstate State support for the Partnership initiatives to stem the growth of gangs in Fairfax County. The Partnership has traditionally focused anti-gang programming on prevention and intervention efforts. In addition, the Partnership offers information about crisis and other resources for hard-to-reach youth and their families.

Funding and in-kind contributions from the State, the County, the federal government, local charities and individuals support the programs and services of the Partnership as a nonprofit organization. The Partnership received \$50,000 from the General Assembly during each of the 2000 and 2002 sessions. State funding of \$100,000 is necessary to support the Partnership initiatives to stem the growth of gangs in Fairfax County. Currently these programs and services include:

- The Fairfax Mentoring Partnership, which serves to train and prepare individuals to be youth mentors;
- The Fairfax County After-School Network, which supports and facilitates the after-school program for middle school youth;
- The Support on Suspension program, which provides students who have been suspended with a place to go during the school day that offers adult supervision, homework, and tutoring. Two sites are operating this school year: Vienna and Reston. The Partnership plans to reopen the Gum Springs site and add additional ones in Annandale, Centreville and Springfield; and
- The Youth Depression and Suicide Prevention Task Force, which is studying the issues of bullying, depression and suicide as key factors affecting youth in Fairfax County in hopes of identifying ways to reduce these risk factors for young people.